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SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42053

THE TOWNSHIP OF WOODBRIDGE, NJ, ET AL.
v.
CONSOLIDATED RAIL CORPORATION, INC.

Decided: March 22, 2001

On December 18, 2000, defendant Consolidated Rail Corporation, Inc. (Conrail) filed a petition for clarification or reconsideration of the Board's decision served December 1, 2000 (December 2000 decision).[1] That decision arose from a complaint filed on March 31, 2000, by the Township of Woodbridge, NJ, and the Department of Health and Human Services of the Township of Woodbridge (collectively, Woodbridge or complainant). Complainant asked us declare: (1) that Conrail was bound by its two agreements with Woodbridge concerning noise abatement, and (2) that Woodbridge may seek enforcement of the agreements in Federal or state courts. The December 2000 decision denied defendant's motion to dismiss the complaint or hold its disposition in abeyance and granted the relief complainant sought. As discussed below, we will now grant Conrail's request for clarification. To the extent Conrail's request for reconsideration is not mooted by our clarification, it is denied.

BACKGROUND

As explained in more detail in the December 2000 decision, Conrail operates a train yard (its Port Reading Yard) and tracks in Woodbridge, including a pair of tracks (a yard track and a main track) that run approximately 40 feet behind Rosewood Lane, a residential street. Over the years, residents along Rosewood Lane have complained about excessive noise from defendant's tracks. Specifically, the residents have complained that locomotives are left on the tracks with their engines idling throughout the late night and early morning hours.

In September 1995, Woodbridge filed suit in the Superior Court of New Jersey, Middlesex County, against Conrail on behalf of the Township's citizens. The action was subsequently removed to Federal court. On May 2, 1996, complainant and defendant resolved the litigation by agreeing to a Stipulation and Order of Settlement, on the basis of which the U.S. District Court for the District of New Jersey dismissed Woodbridge's complaint. In essence,

[1] Conrail also filed a petition for judicial review of the December 2000 decision in Conrail v. STB, No. 01-1042 (D.C. Cir. filed Jan. 25, 2001). On March 12, 2001, the court granted our unopposed motion to dismiss the petition without prejudice.

Conrail agreed to curtail the idling of locomotives and the switching of rail cars behind Rosewood Lane between 10:00 p.m. and 6:00 a.m.

Even after the agreement, however, residents along Rosewood Lane complained about noise from idling trains. On July 30, 1999, Woodbridge filed a motion to enforce and/or clarify the settlement. Shortly thereafter, on August 16, 1999, the parties entered into a Consent Order. The Consent Order incorporated and clarified the prior agreement and specified that, in the event of a future violation of the order, either party would be entitled to apply to the Federal court for a hearing at which injunctive relief and/or monetary sanctions could be requested.

Woodbridge filed a motion with the District Court on October 28, 1999, for relief from alleged continued idling episodes. On January 10, 2000, the court ruled that Conrail had violated the agreements and was in contempt of court. The court indicated that an evidentiary hearing to determine a remedy would follow. On February 22, 2000, however, the court found that it did not have jurisdiction to provide a remedy in view of 49 U.S.C. 10501(b) – the broad preemption provision of the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 – and dismissed Woodbridge's action without prejudice to its right to seek relief before the Board. Shortly thereafter, Woodbridge filed the instant petition.

In our December 200 decision, at 5, we found that Woodbridge may seek court enforcement of the two noise abatement agreements it had entered into with Conrail (dated May 2, 1996, and August 16, 1999) notwithstanding 49 U.S.C. 10501(b). We explained that Conrail had voluntarily entered into the agreements, and thus the preemption provision should not be used to shield the carrier from its own commitments. Rather, because "[t]hese voluntary agreements must been seen as reflecting the carrier's own determination and admission that the agreements would not unreasonably interfere with interstate commerce" (decision at 5), we declined to upset them. At the same time, we found that it would be inappropriate for us to rule on the merits of the contract interpretation dispute in this case, as such matters are best addressed by the courts. In doing so, we specifically noted, at note 13, that a court can resolve the matter of whether the intent of the parties was that the agreement would apply only to operations on yard track, or would apply to operations on the main line track as well.

## POSITIONS OF THE PARTIES

Conrail expresses concern that our December 2000 decision could be read as foreclosing it from demonstrating to a court that interpreting its agreements with Woodbridge to cover its main line operations would result in unreasonable interference with interstate commerce. Petitioner asks us to clarify that we did not intend to preclude that sort of determination by a court. Alternatively, Conrail requests that we reconsider our December 2000 decision and

reopen his proceeding to allow additional evidence regarding the effects on interstate commerce of applying the parties' agreements to main line track, and not simply yard operations.[2]

In a reply filed January 9, 2001, Woodbridge maintains that clarification of our December 2000 decision is unnecessary. Further, complainant argues that Conrail has not shown material error, new evidence, or changed circumstances necessary under 49 CFR 1115.3 to warrant reconsideration. For these reasons, Woodbridge argues, Conrail's petition should be denied.

## DISCUSSION AND CONCLUSIONS

As we stated in the December 2000 decision, the courts are well suited to address matters of contract interpretation and, if necessary, to fashion appropriate remedies. In response to Conrail's request for clarification, we reiterate that Conrail is not precluded from attempting to demonstrate to a court, in a future proceeding, that the intent of the parties was the voluntary agreements between Conrail and Woodbridge apply only to yard track. Moreover, we will make it clear here that nothing in the December 2000 decision was intended to bar Conrail, in a future court proceeding, from raising the argument, as a matter of contract interpretation that: (1) unreasonable interference with interstate commerce would result if these voluntary agreements are interpreted to cover Conrail's main line operations, and (2) in considering enforcement, the court should give due regard to the impact on interstate commerce.

Given our clarification here of the December 2000 decision, Conrail's petition for reconsideration appears to be moot. In any event, Conrail has not shown the material error, new evidence, or changed circumstances needed cause us to reconsider our prior decision under 49 CFR 1115.3. Thus, to the extent Conrail's petition for reconsideration is not moot, it is denied.

It is ordered:

1. Defendant's request for clarification is granted, as described above.

2. Defendant's motion for reconsideration is denied.

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[2] Conrail notes that both Woodbridge and Conrail had agreed to postpone discovery in this proceeding concerning Conrail's operations in the Port Reading Terminal Area until after we had ruled on Conrail's motion to dismiss.

3. This decision is effective 30 days from the date of service.

By the Board, Chairman Morgan, Vice Chairman Clyburn, and Commissioner Burkes.

Vernon A. Williams
Secretary